IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 6130/2005
(Savita Arora Vs. State of Rajasthan & Ors.)

Date of Order : 09/01/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Mahaveer Bishnoi for the petitioner.
Mr. Rameshwar Dave, Dy. Govt. Advocate for the State.

BY THE COURT:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of Notification dated 8.6.2001 Clause (ii) and (iii) of General Note-8 in Schedule 5 introduced by amendment in the pay scales of 1998 appended with the Rajasthan Civil Services (Revised Pay Scales) Rules, 1998 (for short 'the Rules of 1998' hereinafter) and fixation of the pay of the petitioner's husband Satya Prakash Arora who died while in service as Govt. service in the pay scale of Rs. 6500-10500/- instead of Rs. 5500-9000/- and restraining the non-petitioners from effecting recovery of Rs. 2821/- from the salary of the petitioner's husband.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the controversy involved in the instant writ petition stands

covered by the decision of this Court in Chandra Mohan Singh and Ors. Vs. State of Rajasthan & Ors. 2004 (3) Western Law Cases (Raj.) 413.

In this view of the matter, the writ petition is allowed in terms of the decision in Chandra Mohan Singh and Ors. Vs. State of Rajasthan and Ors. (supra) and it is ordered that the impugned notification dated 8.6.2001 Annex.2 to the extent it interferes with the accrued and vested rights of the petitioner's husband Late Satya Prakash Arora in reducing the pay scale from Rs. 6500-10500/- to Rs. 5500-9000 w.e.f. 1st July, 1998 is declared ultra vires of the Constitution of India and only to that extent it stands quashed. The husband of the petitioner unaffected by the impugned Notification dated 8.6.2001 (Annex.2) shall be entitled to retain the pay scale of Rs. 6500-10500 and consequential monetary benefits in view of 1998 Rules which were given effect from September 1, 1996. The respondents are restrained from making any recovery in pursuance of order Annex.4 dated 30.7.2002 and if any recovery has already been affected, the entire recovered amount shall be refunded back to the petitioner within thirty days from the date of receipt of certified copy of this order. There shall be no order as to costs.

(H.R.PANWAR),J.

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